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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,685	03/29/2001	Charles Scott Carmody	26283-4	4203

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EXAMINER

LOFTIS, JOHNNA RONEE

ART UNIT PAPER NUMBER

3623

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/821,685	Applicant(s) CARMODY, CHARLES SCOTT	
	Examiner Johnna R. Loftis	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,7-9 and 11-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,2,8,9 and 16 is/are rejected.
- 7) ☐ Claim(s) 4,5,7,11-15 and 17-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a non-final office action upon examination of application number 09/821,685. Claims 1, 2, 4, 5, 7-9 and 11-23 are pending and have been examined on the merits discussed below.

Response to Arguments

2. Applicant's arguments filed 1/13/06 have been fully considered but they are not persuasive. Applicant argues that Berman doesn't teach receiving private onsite wastewater treatment system service requests from third party private onsite wastewater treatment system owners. However, Berman teaches clients requesting service from a sponsor wherein the sponsor then assigns the request to another location to fulfill the request. In this sense, the client is in fact a third party since the client must go through the sponsor in order to get his or her service request assigned to the appropriate party.

3. Applicant's argument that Berman does not teach a separate notification site for each service provider is not persuasive. Berman teaches at column 4, lines 3-24 a sponsor system is located at the site of each of the service providers.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1, 2, 8, 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berman et al, US 5,995,939.

As per claim 1 (currently amended), Berman et al teaches receiving at a host computer system, service requests (column 3, lines 40-48 – the system includes a client system and sponsor system and mail server system; service requests are entered or received which are electronically mailed to the sponsor system to be fulfilled); recording on the host computer system, which one of a plurality of service providers is assigned to each of the service requests (column 4, lines 3-24 – the appropriate service is provider is emailed regarding the service request); for each assigned service provider, having the host computer system notify the assigned service provider of each service request assigned to the service provider (column 4, lines 3-24 – the appropriate service is provider is emailed regarding the service request); and from each assigned service provider, receiving at the host computer system a service report describing services performed in response to each service request assigned to the service provider (column 4, lines 25-32 – the service provider processes the service request and a fulfilled service request message is emailed back to the original requestor to indicate completion). Berman et al does not explicitly teach the service requests pertaining to private onsite wastewater treatment systems.

However, these limitations merely recite various intended uses of the invention. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re*

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Otto, 136 USPQ 458, 459 (CCPA 1963). The claimed recitations of intended use neither result in a structural difference between the claimed invention and the prior art nor in a manipulative difference as compared to the prior art; therefore, the claimed invention is not deemed to be patentably distinct over the prior art.

As per claim 2, Berman et al teaches providing the host computer system, a separate notification site for each assigned service provider (column 4, lines 60-67 – each service provider has a mail server provider by a commercial Internet provider); and notifying each service provider of service requests assigned to the service provider via the service providers notification site (column 3, lines 40-48 - service requests are entered or received which are electronically mailed to the sponsor system to be fulfilled).

As per claims 8 and 9, they are the system for performing the method of claims 1 and 2 respectively. Since Berman et al teaches a computer system, the same rejection as applied to claims 1 and 2 also applies to claims 8 and 9.

As per claim 16, Berman et al teaches the host computer system with access to a service history for each of the plurality of private onsite wastewater treatment systems (column 5, lines 54-57 – completed service requests are stored in a file which can be accessed at any time in the future).

Allowable Subject Matter

6. Claims 4, 5, 7, 11-15, 17-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of

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the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter:

7. The cited prior art, taken alone or in combination fails to teach the claimed invention set forth in claims 4, 5, 7, 11-15 and 17-23. Specifically, the invention in claims 4, 5 and 11-15 is directed to a method and system for receiving private onsite wastewater treatment system service requests, assigning a third party private onsite wastewater treatment system service provider, notifying the third party private onsite wastewater treatment system service provider, receiving a service report from the third party private onsite wastewater treatment system service provider, providing access to a permit database including a record of each of the private onsite wastewater treatment systems wherein the system searches the permit database to determine if a system for which a request is received is included in the permit database and notifying appropriate governmental agency if the private onsite wastewater treatment system is not included. The invention in claims 7, 17-19, 22 and 23 is directed to a method and system for receiving private onsite wastewater treatment system service requests, assigning a third party private onsite wastewater treatment system service provider, notifying the third party private onsite wastewater treatment system service provider, receiving a service report from the third party private onsite wastewater treatment system service provider, providing access to a service history database, establishing service event thresholds for each of the private onsite wastewater treatment systems, monitoring the service history database to determine the service event threshold and notifying appropriate governmental agency if the service event threshold is exceeded. Claims 20 and 21 combine the features of the above claims and are allowable for the same reasons set forth above.

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8. Regarding claims 4, 5, 11-15, 20 and 21, the closest prior art, the combination of Berman, US 5,995,939 and Environmental Protection Agency's Envirofacts Warehouse, teach assigning service requests to appropriate service providers and a database to check for compliance with permits. The combination fails to teach searching the permit database to determine if a permit has been issued for the system for which there is a service request and notifying the appropriate governmental agency if the permit for the private onsite wastewater system is not included in the database.

9. Regarding claims 7, 17-19-23, the closest prior art, the combination of Berman, US 5,995,939 and Snodgrass, "Taking infrastructure management systems into the next century", teach assigning service requests to appropriate service providers and storing preventative maintenance schedules. The combination fails to teach establishing service event thresholds and monitoring the service event thresholds for each of the private onsite wastewater treatment systems included in the service history database wherein if the service event threshold for any of the private onsite wastewater treatment systems is exceeded, the appropriate governmental agency is notified.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Loftis whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL

2/3/06



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